

RESOLUTION

A RESOLUTION AUTHORIZING THE SETTLEMENT OF THAT CERTAIN COURT LITIGATION STYLED *DONALD R. THARPE, TRUSTEE v. THE BOARD OF SUPERVISORS OF FAUQUIER COUNTY, VIRGINIA, LAW NO. 02-382*

WHEREAS, Donald R. Tharpe, Trustee, owns an 85 acre parcel of land identified as PIN 6899-29-5691-000; and

WHEREAS, Donald R. Tharpe, Trustee, filed a rezoning request seeking to rezone the 85 acres; and

WHEREAS, on November 18, 2002, the Fauquier County Board of Supervisors adopted a resolution amending the Bealeton Service District Comprehensive Plan to include, among other changes, the removal of the aforesaid 85 acres from the Bealeton Service District and the Comprehensive Plan designated as Rural Agricultural, or "R-A"; and

WHEREAS, on November 18, 2002, the Fauquier County Board of Supervisors adopted a resolution denying the aforesaid rezoning request; and

WHEREAS, on December 17, 2002, Donald R. Tharpe, Trustee, filed a *Motion for Declaratory Judgment, Compensatory Damages, and Other Relief* action in the Circuit Court of Fauquier County seeking to invalidate the decision of the Board of Supervisors adopting the aforesaid resolution; and

WHEREAS, the parties wish to settle and resolve the litigation; now, therefore, be it

RESOLVED by the Fauquier County Board of Supervisors this 21st day of June 2004, That the Chairman of the Board of Supervisors be, and is hereby, authorized to execute that certain Settlement Agreement attached hereto and made a part hereof; and, be it

RESOLVED FURTHER, That the County Attorney be, and is hereby, authorized to execute all necessary Court Orders and documents necessary to place into effect the terms of the Settlement Agreement.

SETTLEMENT AGREEMENT

THIS SETTLEMENT AGREEMENT made and entered into this _____ day of _____, 2004, by and between DONALD R. THARPE, TRUSTEE, and the FAUQUIER COUNTY BOARD OF SUPERVISORS.

R E C I T A L S:

WHEREAS, Donald R. Tharpe, Trustee, owns an 85 acre parcel of land identified as PIN 6899-29-5691-000; and

WHEREAS, Donald R. Tharpe, Trustee, filed a rezoning request seeking to rezone the 85 acres; and

WHEREAS, on November 18, 2002, the Fauquier County Board of Supervisors adopted a resolution amending the Bealeton Service District Comprehensive Plan to include, among other changes, the removal of the aforesaid 85 acres from the Bealeton Service District; and

WHEREAS, on November 18, 2002, the Fauquier County Board of Supervisors adopted a resolution denying the aforesaid rezoning request; and

WHEREAS, on December 17, 2002, Donald R. Tharpe, Trustee, filed a *Motion for Declaratory Judgment, Compensatory Damages, and Other Relief* action in the Circuit Court of Fauquier County seeking to invalidate the decision of the Board of Supervisors adopting the aforesaid resolution; and

WHEREAS, the parties wish to settle and resolve the litigation.

T E R M S:

IN CONSIDERATION of the mutual covenants and promises contained herein, Donald R. Tharpe, Trustee, and the Fauquier County Board of Supervisors, on behalf of themselves, their heirs, successors, assigns and designees do hereby covenant and agree:

(1) The parties will execute a Consent Order which (a) vacates the November 18, 2002 resolution as it relates to the 85 acre parcel further identified as PIN 6899-29-5691-000, and places the decision on the comprehensive planning of the parcel before the Board of Supervisors; and (b) dismisses with prejudice all demands, claims, causes of action arising in and out of the claims asserted in the certain course of action styled *Donald R. Tharpe, Trustee of The*

Donald R. Tharpe Trust v. The Board of Supervisors of Fauquier County, Virginia, at Law No. 02-382, filed in the Circuit Court of Fauquier County, upon entry of a resolution placing the 85 acre parcel into the Bealeton Service District with 60 acres comprehensively planned for Low Density Residential (R-1 to R-3) and 25 acres comprehensively planned for Commercial Office (C-O).

(2) Upon the entry of the Order and the resolution set forth in (1) above, each party shall be released from any and all cost, damages and liability of whatever nature and kind arising out of, or pertaining to, the litigation styled *Donald R. Tharpe, Trustee, v. The Board of Supervisors of Fauquier County, Virginia, Law No. 02-382*, the November 18, 2002 resolution of the Board of Supervisors removing the aforesaid parcel from the Bealeton Service District and the resolution dated November 18, 2002, of the Board of Supervisors denying the rezoning request of Donald R. Tharpe, Trustee.

(3) Each party shall bear its own costs, including attorney's fees, arising out of the facts set forth in this litigation and the proposed rezoning and removal from the comprehensively planned Bealeton Service District.

DONALD R. THARPE, TRUSTEE
of the Donald R. Tharpe Trust

By: _____
James P. Downey, Esq.
Counsel for Donald R. Tharpe, TR.

THE BOARD OF SUPERVISORS OF
FAUQUIER COUNTY, VIRGINIA

By: _____